



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,854	12/29/2003	Russell F. McKnight	P1506US01	2761
24333	7590	10/27/2008		
GATEWAY, INC. ATTN: Patent Attorney 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			EXAMINER ALVESTIEFFER, STEPHEN D	
			ART UNIT 2175	PAPER NUMBER
			MAIL DATE 10/27/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/747,854

Applicant(s)

MCKNIGHT ET AL.

Examiner

Stephen Alvesteffer

Art Unit

2175

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

This Office Action is responsive to the Amendment filed August 13, 2008. Claims 1, 3, 5, and 10 are amended. Claims 41-48 are cancelled. Claims 1, 11, 21, and 31 are independent. Claims 1-40 remain pending.

Claim Objections

Claim 10 objected to because of the following informalities:

- On line 4, "on of said second software application" should be corrected to
—one of said second software application—

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Independent claim 1 and dependent claim 10 were amended to specifically recite monitoring the usage of "software applications" and

"hardware devices", which are not defined in the specification. Instead, the specification only discloses monitoring the usage of "applications", "devices", and "resources".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Barrett et al. (hereinafter Barrett), United States Patent 5,727,129.

Regarding claim 1, Barrett teaches a method of generating a persistent usage context representing utilization of software applications and hardware devices of an information handling system, comprising:

monitoring usage of at least one of a first software application and a first hardware device of said information handling system (see column 7 lines 51-56; *"the number of occurrences of the page, i.e., the number of times in the past that this Web page has been downloaded, is computed. Preferably, the date and time of the prior downloads, or some suitable indication of how recently each download took place, is also obtained, and used later"*);

generating a first representation corresponding to actions performed during said usage of said at least one of said first software application and said first hardware device (see Figure 9, showing representations corresponding to items of usage);

generating a second representation corresponding to actions performed during said usage of said at least one of said second software application and said second hardware device (see Figure 9, showing representations corresponding to items of usage);

communicating an association of the first representation to the second representation so as to enable a determination of at least one of prior usage and current usage of the information handling system (see Figure 9 and column 9 lines 22-35; *"Each of these previously viewed pages have, in turn, two pages viewed before them, as shown. For the chronological relationships, connectors are shown, generally numbered as 68. Because of the general graphical approach of showing the current page and pages previously download soon before or after the current page, this might be referred to as a "Local Trail" display"*).

Regarding claim 2, Barrett teaches storing the first representation and second representation (see column 6 lines 59-65; *"In accordance with the invention, storage 18 is provided for storing the profile to be developed as continuing use of the system by a user establishes a history from which future predictions can be made"*).

Regarding claim 3, Barrett teaches that at least one of the first stored representation and second representation may be accessed after termination of at least one of a first item of usage and a second item of usage (see column 7 line 66 through column 8 line 2; *"Similarly, step 32 identifies other Web pages that, is prior Web surfing sessions, the user went to from the current Web page"*).

Regarding claim 4, Barrett teaches that at least one of the first representation and second representation is capable of accessing at least one of a first item of usage and second item of usage (see Figure 6, showing the representations having access to the number of previous visits).

Regarding claim 5, Barrett teaches that at least one of the first representation and second representation is interactive with at least one of the first item of usage and the second item of usage (see Figures 6 and 9, showing the representations interactive with items of usage).

Regarding claim 6, Barrett teaches that the first representation includes as a part thereof the second representation (see Figure 9, showing several representations in one display).

Regarding claim 7, Barrett teaches that the association includes at least one of chronological mapping, organization scheme, spatial relationship, shared usage, and term of usage (see Figure 9 and column 9 lines 22-35; *"Each of these previously viewed pages have, in turn, two pages viewed before them, as shown. For the chronological relationships, connectors are shown, generally numbered as 68. Because of the general graphical approach of showing the current page and pages previously download soon before or after the current page, this might be referred to as a "Local Trail" display"*).

Regarding claim 10, Barrett teaches that said usage of at least one of said first software application and said first hardware device, and said usage of at least one of said second software application and said second hardware device, is at least one of printing, scanning for viruses, word processing, utilizing spreadsheets, utilizing a

database, enabling an operating system, accessing a network, network applications, graphics usage, utilization of devices, and data manipulation (see column 7 lines 51-56; *"In step 26, the number of occurrences of the page, i.e., the number of times in the past that this Web page has been downloaded, is computed. Preferably, the date and time of the prior downloads, or some suitable indication of how recently each download took place, is also obtained, and used later"*).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett (5,727,129) *supra* and Bauersfield et al. (hereinafter Bauersfield), United States Patent 6,195,679.

Regarding claim 8, Barrett teaches every limitation of claim 8, but is silent regarding the step of searching data relating to at least one of the first representation and second representation. Bauersfield monitoring usage of Internet resources and allowing users to search previously accessed resources (see Bauersfield column 4 lines 51-58; *"When the user searches through any of the history folders the pages can be filtered based on importance, only bookmarks, only history, only mail, by content, or any combination of data types. The user can also view what she did over a certain time period. For example, the user could choose to see what she did last Tuesday. A time line displays all of the items in one scrollable time chart. Older activities appear differently than newer activities"*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the usage history search functionality of Bauersfield with the user interface of Barrett in order to provide users with capability to search the data stored in the persistent usage context.

Regarding claim 9, Barrett/Bauersfield teaches that the search is performed by at least one of type, topic, size, time taken for usage, time usage performed, user defined criteria, and name (see Bauersfield column 4 lines 51-58; *"When the user searches through any of the history folders the pages can be filtered based on importance, only bookmarks, only history, only mail, by content, or any combination of data types. The user can also view what she did over a certain time period. For*

example, the user could choose to see what she did last Tuesday. A time line displays all of the items in one scrollable time chart. Older activities appear differently than newer activities").

Claims 11-17, 20-27, 30-37, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett (5,727,129) *supra* and Austin, United States Patent 6,370,569.

Regarding claim 11, Barrett teaches medium readable by an information handling system and containing a program of instructions causing the information handling system to execute steps for generating a persistent usage context, the steps comprising: monitoring usage of resources of an information handling system (see Barrett column 7 lines 51-56; *"the number of occurrences of the page, i.e., the number of times in the past that this Web page has been downloaded, is computed. Preferably, the date and time of the prior downloads, or some suitable indication of how recently each download took place, is also obtained, and used later"*); generating a first representation corresponding to a first item of usage (see Barrett Figure 9, showing representations corresponding to items of usage); generating a second representation corresponding to a second item of usage (see Barrett Figure 9, showing representations corresponding to items of usage); communicating an association of the first representation to the second representation so as to enable a determination of at least one of prior usage and current usage of resources of the information handling system (see Barrett Figure 9 and column 9 lines 22-35; *"Each of these previously viewed pages*

have, in turn, two pages viewed before them, as shown. For the chronological relationships, connectors are shown, generally numbered as 68. Because of the general graphical approach of showing the current page and pages previously download soon before or after the current page, this might be referred to as a "Local Trail" display"); wherein the resources of which the usage is monitored comprises devices coupled to the information handling system over a network, and other information handling systems coupled to the information handling system (see Barrett column 8 lines 49-61; "FIG. 6 is a simplified representation of a Web page. A current URL display 48 shows the URL of the currently-displayed page, in typical fashion. Also displayed are a set of URLs for other Web pages which, in the past, the user has gone to from this one"). Barrett does not explicitly teach that the resources of which the usage is monitored comprises devices coupled internally of the information handling system, devices coupled to the information handling system peripherally of the information handling system. It was well known in the art at the time the invention was made that URLs can point to devices coupled internally of the information handling system, as well as devices coupled to the information handling system peripherally of the information handling system (see Austin column 2 line 63 through column 3 line 9; "The URL can also be a standard Internet URL, such as http, ftp, file etc. As an example, the URL can begin with "file:," signifying that a data file is the source of data. The remainder of the URL comprises a path that is meaningful to the machine where the data file resides. This includes files on the local machine or files addressable within the Internet that are accessible by the local machine. Thus the Data Socket client allows a program to address data or files locally,

or from a server, or from a peripheral device"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the URL resources of Barrett to also point to local and peripheral devices as shown possible by Austin so that the functionality of the invention could be expanded to also include local resources.

Regarding claim 12, Barrett/Austin teaches storing the first representation and second representation (see Barrett column 6 lines 59-65; *"In accordance with the invention, storage 18 is provided for storing the profile to be developed as continuing use of the system by a user establishes a history from which future predictions can be made"*).

Regarding claim 13, Barrett/Austin teaches that at least one of the first stored representation and second representation may be accessed after termination of at least one of the first item of usage and the second item of usage (see Barrett column 7 line 66 through column 8 line 2; *"Similarly, step 32 identifies other Web pages that, is prior Web surfing sessions, the user went to from the current Web page"*).

Regarding claim 14, Barrett/Austin teaches that at least one of the first representation and second representation is capable of accessing at least one of a first item of usage and second item of usage (see Barrett Figure 6, showing the representations having access to the number of previous visits).

Regarding claim 15, Barrett/Austin teaches that at least one of the first representation and second representation is interactive with at least one of the first item of usage and the second item of usage (see Barrett Figures 6 and 9, showing the representations interactive with items of usage).

Regarding claim 16, Barrett/Austin teaches that the first representation includes as a part thereof the second representation (see Barrett Figure 9, showing several representations in one display).

Regarding claim 17, Barrett/Austin teaches that the association includes at least one of chronological mapping, organization scheme, spatial relationship, shared usage, and term of usage (see Barrett Figure 9 and column 9 lines 22-35; *"Each of these previously viewed pages have, in turn, two pages viewed before them, as shown. For the chronological relationships, connectors are shown, generally numbered as 68. Because of the general graphical approach of showing the current page and pages previously download soon before or after the current page, this might be referred to as a "Local Trail" display"*).

Regarding claim 20, Barrett/Austin teaches that at least one of the first item of usage and second item of usage includes at least one of browsing the World Wide Web, printing, scanning for viruses, word processing, utilizing spreadsheets, utilizing a database, enabling an operating system, accessing a network, network applications, graphics usage, utilization of devices, and data manipulation (see Barrett column 7 lines 51-56; *"In step 26, the number of occurrences of the page, i.e., the number of times in the past that this Web page has been downloaded, is computed. Preferably, the date and time of the prior downloads, or some suitable indication of how recently each download took place, is also obtained, and used later"*).

Claims 21-27 and 30 recite an information handling system that performs substantially the same steps as the medium of claims 11-17 and 20. Therefore, the claims are rejected under the same rationale.

Claims 31-37 and 40 recite an information handling system that performs substantially the same steps as the medium of claims 11-17 and 20. Therefore, the claims are rejected under the same rationale.

Claims 18, 19, 28, 29, 38, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett (5,727,129) *supra*, Austin (6,370,569) *supra*, and Bauersfield (6,195,679) *supra*.

Regarding claim 18, Barrett/Austin teaches every limitation of claim 18, but is silent regarding the step of searching data relating to at least one of the first representation and second representation. Bauersfield monitoring usage of Internet resources and allowing users to search previously accessed resources (see Bauersfield column 4 lines 51-58; "*When the user searches through any of the history folders the pages can be filtered based on importance, only bookmarks, only history, only mail, by content, or any combination of data types. The user can also view what she did over a certain time period. For example, the user could choose to see what she did last Tuesday. A time line displays all of the items in one scrollable time chart. Older activities appear differently than newer activities*"). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the usage history search

functionality of Bauersfield with the user interface of Barrett/Austin in order to provide users with capability to search the data stored in the persistent usage context.

Regarding claim 19, Barrett/Austin/Bauersfield teaches that the search is performed by at least one of type, topic, size, time taken for usage, time usage performed, user defined criteria, and name (see Bauersfield column 4 lines 51-58; *"When the user searches through any of the history folders the pages can be filtered based on importance, only bookmarks, only history, only mail, by content, or any combination of data types. The user can also view what she did over a certain time period. For example, the user could choose to see what she did last Tuesday. A time line displays all of the items in one scrollable time chart. Older activities appear differently than newer activities"*).

Claims 28 and 29 recite an information handling system that performs substantially the same steps as the medium of claims 18 and 19. Therefore, the claims are rejected under the same rationale.

Claims 38 and 39 recite an information handling system that performs substantially the same steps as the medium of claims 18 and 19. Therefore, the claims are rejected under the same rationale.

Response to Arguments

Applicant asserts that Barrett does not teach or suggest the newly added limitation of "monitoring usage of at least one of a first software application and a first hardware device of said information handling system". Examiner respectfully disagrees.

Barrett teaches a system and method for *"use with an **communication and information network**, such at the Internet World Wide Web, for assisting a user in accessing information stored at remote network sites based on the **user's past history of network usage**"* (emphasis added) (see Barrett Abstract). Here, Barrett *explicitly* teaches a system and method for monitoring usage of an information handling system. The "information handling system" is seen as equivalent to the "network" of Barrett. It is also noted that Barrett uses World Wide Web pages only as an example of the best mode embodiment.

Barrett's network comprises both software applications and hardware devices. Barrett defines various terminology in column 1. The Internet is defined as *"The connection system that links computers worldwide in a network"*. The World Wide Web is defined as allowing users to switch from *"server to server and database to database"*. A server is defined as *"a machine"*. A URL is defined as a unique identifier pointing to a *"document, application, or tool available over the Web"*. Clearly according to Barrett's definition of the network, the network includes software applications and hardware devices.

Applicant further asserts that Barrett does not disclose *"generating a first representation corresponding to actions performed during said usage of said at least one of said first software application and said first hardware device; and generating a second representation corresponding to actions performed during said usage of said at*

least one of said second software application and said second hardware device". The examiner respectfully disagrees.

Applicant interprets the "software application" as being equated to the web browser application in Barrett. However, examiner is interpreting each accessed network site of Barrett to be the "software application" as recited in claim 1 of the instant application. As defined by Barrett in column 1, a network site, or URL destination, can be a "*document, application, or tool available over the Web*". Therefore, in Barrett Figure 9, each displayed state is equated to a "representation".

Applicant asserts that independent claims 11, 21, and 31 each relate to monitoring usage of hardware devices. The examiner respectfully disagrees. It is noted that claims 11, 21, 31, or any of their dependent claims, do not recite any limitation that the devices must be hardware. Instead, these claims only recite monitoring of *resources* and *devices*. It is further noted that a device, when viewed in the broadest reasonable interpretation, does not have to be a physical hardware device. Furthermore as established above, Barrett teaches monitoring usage of network sites, which includes hardware devices.

Applicants assert that it is a mischaracterization to suggest that "URLs" point to devices. The examiner respectfully disagrees.

As noted previously, a device can be interpreted as a software device. Also noted previously, claims 11-40 recite only "devices", and not "hardware devices". Even

if, *arguendo*, the recited claims are limited to monitoring usage of hardware devices, Barrett teaches that URLs can point to data stored on different servers (defined as machines). Monitoring **usage of data stored on hardware devices** is the same as monitoring the **usage of hardware devices**, because the hardware devices of the instant application are operated by software and other stored data.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Alvesteffer whose telephone number is

(571)270-1295. The examiner can normally be reached on Monday-Friday 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Bashore can be reached on (571)272-4088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Stephen Alvesteffer
Examiner
Art Unit 2175

/S. A./
Examiner, Art Unit 2175

/Kieu D Vu/
Primary Examiner, Art Unit 2175